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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,798	01/05/2001	Richard D. Frazer	G00284/US	5281
35758 7590 05/25/2007 GKN DRIVELINE NORTH AMERICA, INC 3300 UNIVERSITY DRIVE AUBURN HILLS, MI 48326			EXAMINER BINDA, GREGORY JOHN	
			ART UNIT 3679	PAPER NUMBER
			MAIL DATE 05/25/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/755,798		FRAZER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Greg Binda		3679	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)            | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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*Declaration*

1. The declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The declaration is defective because it does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

*Drawings*

2. The drawings are objected to because:
  - a. Figs. 1 & 2 use inappropriate hatch patterns to depict cellular foam material. See MPEP 608.02 for the appropriate pattern.
  - b. In Fig. 1 the lead line for reference numeral 52 fails to indicate the outer race section of the boot 12. Instead it indicates the outer race 14.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

4. The specification is objected to as failing to provide proper antecedent basis for the "rubber" recited in claims 2, 9 & 16.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 5, 8, 9 & 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Fierstine, US 3,129,023. Figs. 1 & 2 show a sealing boot 54 that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end 56 for mating with a constant velocity joint and a second end 64 for mating with an interconnecting shaft. In col. 2,

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lines 29-36, the boot 54 is disclosed as comprising a body portion 62 manufactured from foam rubber.

7. Claims 1-3, 5, 8-10, 12, 15-17 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Blee, US 5,379,856. Fig. 4 shows a sealing boot 40a that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end 54a for mating with a constant velocity joint and a second end 50a for mating with an interconnecting shaft. In col. 6, lines 15-40, the boot 40a is disclosed as comprising a body portion 70a manufactured from closed cell material.

8. Claims 1-5 & 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ayers, US 4,500,151. Fig. 1 shows a sealing boot 17 that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end for mating with a constant velocity joint and a second end for mating with an interconnecting shaft. In col. 3, lines 23 & 24 and col. 4, lines 10-13, the boot 17 is disclosed as comprising a body portion manufactured from silicone and closed cell material.

9. Claims 1-5, 8-12 & 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Rabe, DE 296 17 276 (all references below are taken from English language equivalent US 6,152,641). Fig. 1 shows a sealing boot 21 that can be used with a constant velocity joint and an interconnecting shaft, the boot comprising: a first end for mating with a constant velocity joint

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and a second end for mating with an interconnecting shaft. In col. 2, lines 35-57, the boot 21 is disclosed as comprising a body portion manufactured from closed cell silicone material.

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6, 7, 13, 14, 20 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabe. Rabe shows a foam sealing boot 21 comprising all the limitations of the claims but does not expressly disclose the foam having a density in the range from 10 kg/m<sup>3</sup> to 27 kg/m<sup>3</sup> and/or being heat resistant to 450 °F. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide foam with a density in the range from 10 kg/m<sup>3</sup> to 27 kg/m<sup>3</sup> and/or being heat resistant to 450 °F, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Kulling*, 897 F.2d 1147, 14 USPQ2d 1056.

12. Claims 6, 7, 13, 14, 20 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Fierstine, Blee and Ayers for the same reasons noted immediately above.

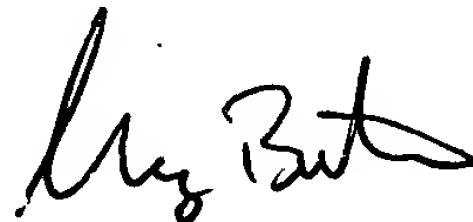
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*Conclusion*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Greg Binda  
Primary Examiner  
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